UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,961	02/25/2004	David R. Clark	555255012729	4125

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PATENT GROUP 2N
JONES DAY
NORTH POINT
901 LAKESIDE AVENUE
CLEVELAND, OH 44114

EXAMINER
ADDY, ANTHONY S

ART UNIT	PAPER NUMBER
2617	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>19 September 2008</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1,4-6,16,48-50 and 53</u> is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1,4-6,16,48-50 and 53</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a)☐ All   b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
     Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
     Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   This action is in response to applicant's amendment filed on September 19,

2008. **Claims 8, 9, 51, 52, 54** and **55** are cancelled. **Claims 1, 4, 5, 16, 48, 49, 50** and

53 are pending in the present application.

Response to Arguments

2.   Applicant's arguments with respect to **claims 1, 4, 5, 16, 48, 49, 50** and **53** have

been considered but are moot in view of the new ground(s) of rejection. Arguments are

directed to newly added limitations and the new ground(s) of rejection based on the

newly added limitations follow below.

Claim Rejections - 35 USC § 103

3.   The text of those sections of Title 35, U.S. Code not included in this action can

be found in a prior Office action.

4.   Claims 1, 4-6, 8, 9, 16 and 48-55 are rejected under 35 U.S.C. 103(a) as being

unpatentable over **Vasudevan, U.S. Publication Number 20040192282 A1**

(hereinafter Vasudevan) and **Mathur, U.S. Patent Number 5,008,814 (hereinafter**

Mathur) and further in view of **Okonnen et al., U.S. Publication Number**

2004/0243993 A1 (hereinafter Okonnen).

        As to **claims 1** and **53**, Vasudevan teaches a method of updating a mobile

device (*e.g., mobile communication device 110*) having a baseline configuration stored

in a mobile device memory (see p. 2 [0028] and p. 3 [0036]), comprising: receiving at a

mobile device resource requirements data for an update from an update management computing device, the resource requirements data including a memory size of update data associated with the update (see p. 3 [0042]); determining whether the mobile device has a minimum amount of available memory in the mobile device memory to store the update data by comparing the memory size of the update data to the minimum amount of available memory in the mobile device memory (see p. 3 [0042]); if the mobile device does not have the minimum amount of available memory in the mobile device memory to store the update data, then identifying stored mobile device data stored in the mobile device memory that may be purged to make available the minimum amount of available memory in the mobile device memory (see p. 4 [0047]); transmitting from the mobile device to the update management computing device update request data requesting update data (see p. 4 [0047]); receiving at the mobile device the update data from the update management computing device in response to the transmitted update request data (see p. 4 [0047]).

However, Vasudevan fails to disclose updating the mobile device with the received update data by: creating an updated mobile device configuration within the available memory of the mobile device memory; and maintaining the baseline mobile device configuration within the mobile device memory after creating the updated mobile device configuration within the available memory of the mobile device memory, wherein the baseline mobile device configuration is maintained within the mobile device memory for a period of time sufficient to allow the updated mobile device configuration to be tested; wherein updating mobile device with the received update data further comprises:

storing an update resource in the mobile device memory, the update resource specifying the baseline mobile device configuration and update mobile device configuration. However, the Examiner contends this feature is very well known in the art as taught for example by Mathur.

In an analogous field of endeavor, Mathur teaches a method and apparatus for updating system management software in a communication network, comprising: updating a mobile device with the received update data by: creating an updated mobile device configuration within the available memory of the mobile device memory (see col. 6, lines 3-10 and Fig. 2; *step 204*); maintaining the baseline mobile device configuration within the mobile device memory after creating the updated mobile device configuration within the available memory of the mobile device memory, wherein the baseline mobile device configuration is maintained within the mobile device memory for a period of time sufficient to allow the updated mobile device configuration to be tested (see col. 7, line 45 through col. 8, line 23 and Fig. 2; *steps 207-211*); and accepting the updated mobile device configuration or reverting to the baseline mobile device configuration (see *Mathur,* col. 7, lines 31-63, col. 9, lines 20-30 and Fig. 2; *steps 208 & 210*). Mathur further teaches maintaining an old and new version of the system software within the non-volatile storage device (see *Mathur,* col. 6, lines 3-10 and col. 7, lines 45-63), which reads on the claimed limitations of "storing an update resource in the mobile device memory, the update resource specifying the baseline mobile device configuration and update mobile device configuration."

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Vasudevan with the teachings of Mathur to include a method of updating the mobile device with the received update data by: creating an updated mobile device configuration within the available memory of the mobile device memory; and maintaining the baseline mobile device configuration within the mobile device memory after creating the updated mobile device configuration within the available memory of the mobile device memory, wherein the baseline mobile device configuration is maintained within the mobile device memory for a period of time sufficient to allow the updated mobile device configuration to be tested, in order to easily update system management software in a communication device from a current code version to a latest updated code version, and verifying at the communication device, to determine whether it received an appropriate update package before applying the update package to the existing version of firmware and/or software in the communication device as per the teachings of Mathur (see abstract, col. 2, lines 7-27 and Fig. 2).

Vasudevan in view of Mathur fails to explicitly teach determining whether an update resource is stored in the mobile device memory during an initialization of the mobile device; upon determining that the update resource is stored in the mobile device memory during an initialization of the mobile device, prompting a mobile device user to select one of the baseline mobile device configuration or updated mobile device configuration; and accepting the updated mobile device configuration or reverting to the baseline mobile device configuration based on the user selection.

In an analogous field of endeavor, Okonnen teaches updating software/firmware in a mobile handset, wherein the mobile handset may display a list of available update agents to an end-user and solicit selection of an update agent to be used to update at least one of software and firmware (see p. 4 [0055]). According to Okonnen, the mobile handset may detect an update to firmware/software when the mobile handset powers up or is rebooted (*i.e., reads on the initialization of a mobile device as claimed*), and the mobile handset may determine the list of available and provisioned update agents to display to the end-user to allow the end-user to select one of the update agents to perform an update (see p. 4 [0057-0058]). Okonnen further teaches based on the selection by the end-user, an update to a particular firmware, software, hardware configuration, etc., in the mobile handset is performed (see p. 4 [0058-0059]).

It would therefore have been obvious to one of ordinary skill in the art at the time of the invention to modify Vasudevan and Mathur with the teachings of Okonnen to include a method, wherein upon determining that the update resource is stored in the mobile device memory during an initialization of the mobile device, prompting a mobile device user to select one of the baseline mobile device configuration or updated mobile device configuration; and accepting the updated mobile device configuration or reverting to the baseline mobile device configuration based on the user selection, in order to enable an end-user of a mobile handset to select for processing updates and applying firmware, software, and hardware configuration updates, and selecting an update agent from a plurality of available update agents based upon evaluated criteria, such as the type of the update to be performed as taught by Okonnen (see p. 5 [0077]).

As to **claim 4**, the combination of Vasudevan, Mathur and Okonnen teaches all

the limitations of claim 1. The combination of Vasudevan, Mathur and Okonnen further

teaches a method, further comprising: upon identifying stored mobile device data stored

in the mobile device memory that may be purged to make available the minimum

amount of available memory in the mobile device memory (see *Vasudevan*, p. 4 [0047]):

determining whether the identified stored mobile device data is stored on a remote

storage device operable to communicate with the mobile device over a communication

network (see *Vasudevan*, p. 4 [0047]); upon determining that the identified stored

mobile device data is not stored on the remote storage device, transmitting the identified

stored mobile device data to the remote storage device for storage (see *Vasudevan*, p.

4 [0047]); and purging the identified stored mobile device data from the mobile device

memory (see *Vasudevan*, p. 4 [0047]).

As to **claim 5**, the combination of Vasudevan, Mathur and Okonnen teaches all

the limitations of claim 4. The combination of Vasudevan, Mathur and Okonnen further

teaches a method, further comprising: updating the mobile device with the received

update data (see *Vasudevan*, p. 3 [0042 & 0044]); transmitting a request from the

mobile device to the remote storage device for transmission of the identified stored

mobile device data from the remote storage device to the mobile device (see

Vasudevan, p. 3 [0036-0038 & 0043]); receiving the identified stored mobile device data

from the remote storage device in response to the transmitted request (see *Vasudevan*,

p. 3 [0040, 0043-0044]); and storing the identified stored mobile device data in the

mobile device memory (see *Vasudevan*, p. 3 [0043-0044]).

As to **claim 6**, the combination of Vasudevan, Mathur and Okonnen teaches all

the limitations of claim 5. The combination of Vasudevan, Mathur and Okonnen further

teaches a method, wherein the remote storage device comprises the update

management computing device (see *Vasudevan*, p. 5 [0054]).

As to **claim 16**, the combination of Vasudevan, Mathur and Okonnen teaches all

the limitations of claim 1. The combination of Vasudevan, Mathur and Okonnen further

teaches a method, wherein updating the mobile device with the received update data

further comprises copy-on-write of stored baseline configuration data stored into the

available memory of the mobile device (see *Vasudevan*, p. 4 [0047] and *Mathur*, col. 5,

lines 48-60, col. 6, lines 3-23 and Fig. 2).

As to **claim 48**, Vasudevan teaches a mobile device having a baseline

configuration stored in a mobile device memory (*e.g., mobile communication device

110*) (see p. 2 [0028] and p. 3 [0036]), comprising: means for receiving resource

requirements data for an update from an update management computing device, the

resource requirements data including a memory size of update data associated with the

update (see p. 3 [0042] [*i.e., It is inherent the mobile device includes a transceiver for

communicating with the DA server to receive software updates*]); means for determining

whether the mobile device has a minimum amount of available memory in the mobile

device memory to store the update data by comparing the memory size of the update

data to the minimum amount of available memory in the mobile device memory (see p.

3 [0042-0043] and p. 4 [0047]); means, responsive to the mobile device not having the

minimum amount of available memory in the mobile device memory to store the update

data, for identifying stored mobile device data stored in the mobile device memory that may be purged to make available the minimum amount of available memory in the mobile device memory (see p. 3 [0042-0043] and p. 4 [0047]); means for transmitting from to the update management computing device update request data requesting update data (see p. 4 [0047]); means for receiving at the mobile device the update data from the update management computing device in response to the transmitted update request data (see p. 4 [0047]).

However, Vasudevan fails to disclose means for updating the mobile device with the received update data by: creating an updated mobile device configuration within the available memory of the mobile device memory; and maintaining the baseline mobile device configuration within the mobile device memory after creating the updated mobile device configuration within the available memory of the mobile device memory, wherein the baseline mobile device configuration is maintained within the mobile device memory for a period of time sufficient to allow the updated mobile device configuration to be tested; wherein the means for updating the mobile device with the received update data further comprises: means for storing an update resource in the mobile device memory, the update resource specifying the baseline mobile device configuration and update mobile device configuration. However, the Examiner contends this feature is very well known in the art as taught for example by Mathur.

In an analogous field of endeavor, Mathur teaches a method and apparatus for updating system management software in a communication network, comprising: updating a mobile device with the received update data by: creating an updated mobile

device configuration within the available memory of the mobile device memory (see col.

6, lines 3-10 and Fig. 2; *step 204*); and maintaining the baseline mobile device

configuration within the mobile device memory after creating the updated mobile device

configuration within the available memory of the mobile device memory, wherein the

baseline mobile device configuration is maintained within the mobile device memory for

a period of time sufficient to allow the updated mobile device configuration to be tested

(see col. 7, line 45 through col. 8, line 23 and Fig. 2; *steps 207-211*); and accepting the

updated mobile device configuration or reverting to the baseline mobile device

configuration (see *Mathur,* col. 7, lines 31-63, col. 9, lines 20-30 and Fig. 2; *steps 208 &*

210). Mathur further teaches maintaining an old and new version of the system

software within the non-volatile storage device (see *Mathur,* col. 6, lines 3-10 and col. 7,

lines 45-63), which reads on the claimed limitations of "storing an update resource in the

mobile device memory, the update resource specifying the baseline mobile device

configuration and update mobile device configuration."

Therefore, it would have been obvious to one of ordinary skill in the art at the

time of the invention to modify Vasudevan with the teachings of Mathur to include a

mobile device, comprising: means for updating the mobile device with the received

update data by: creating an updated mobile device configuration within the available

memory of the mobile device memory; and maintaining the baseline mobile device

configuration within the mobile device memory after creating the updated mobile device

configuration within the available memory of the mobile device memory, wherein the

baseline mobile device configuration is maintained within the mobile device memory for

a period of time sufficient to allow the updated mobile device configuration to be tested,

in order to easily update system management software in a communication device from

a current code version to a latest updated code version, and verifying at the

communication device, to determine whether it received an appropriate update package

before applying the update package to the existing version of firmware and/or software

in the communication device as per the teachings of Mathur (see abstract, col. 2, lines

7-27 and Fig. 2).

Vasudevan in view of Mathur fails to explicitly teach means for determining

whether an update resource is stored in the mobile device memory during an

initialization of the mobile device; means, responsive to determining that the update

resource is stored in the mobile device memory during an initialization of the mobile

device, for prompting a mobile device user to select one of the baseline mobile device

configuration or updated mobile device configuration; and means for accepting the

updated mobile device configuration or reverting to the baseline mobile device

configuration based on the user selection.

In an analogous field of endeavor, Okonnen teaches updating software/firmware

in a mobile handset, wherein the mobile handset may display a list of available update

agents to an end-user and solicit selection of an update agent to be used to update at

least one of software and firmware (see p. 4 [0055]). According to Okonnen, the mobile

handset may detect an update to firmware/software when the mobile handset powers

up or is rebooted (*i.e., reads on the initialization of a mobile device as claimed*), and the

mobile handset may determine the list of available and provisioned update agents to

display to the end-user to allow the end-user to select one of the update agents to
perform an update (see p. 4 [0057-0058]). Okonnen further teaches based on the
selection by the end-user, an update to a particular firmware, software, hardware
configuration, etc., in the mobile handset is performed (see p. 4 [0058-0059]).

It would therefore have been obvious to one of ordinary skill in the art at the time
of the invention to modify Vasudevan and Mathur with the teachings of Okonnen to
include a mobile device, comprising: means for determining whether an update
resource is stored in the mobile device memory during an initialization of the mobile
device; means, responsive to determining that the update resource is stored in the
mobile device memory during an initialization of the mobile device, for prompting a
mobile device user to select one of the baseline mobile device configuration or updated
mobile device configuration; and means for accepting the updated mobile device
configuration or reverting to the baseline mobile device configuration based on the user
selection, in order to enable an end-user of a mobile handset to select for processing
updates and applying firmware, software, and hardware configuration updates, and
selecting an update agent from a plurality of available update agents based upon
evaluated criteria, such as the type of the update to be performed as taught by Okonnen
(see p. 5 [0077]).

As to **claim 49**, the combination of Vasudevan, Mathur and Okonnen teaches all
the limitations of claim 48. The combination of Vasudevan, Mathur and Okonnen further
teaches a mobile device, further comprising: means **(LRM)**, responsive identifying
stored mobile device data stored in the mobile device memory that may be purged to

make available the minimum amount of available memory in the mobile device memory

(see *Vasudevan*, p. 4 [0047]), for determining whether the identified stored mobile

device data is stored on a remote storage device operable to communicate with the

mobile device over a communication network (see *Vasudevan*, p. 4 [0047]); means

(LRM), response to determining that the identified stored mobile device data is not

stored on the remote storage device, transmitting the identified stored mobile device

data to the remote storage device for storage (see *Vasudevan*, p. 4 [0047]), and for

purging the identified stored mobile device data from the mobile device memory (see

Vasudevan, p. 4 [0047]).

As to **claim 50**, the combination of Vasudevan, Mathur and Okonnen teaches all

the limitations of claim 49. The combination of Vasudevan, Mathur and Okonnen further

teaches a mobile device, further comprising: means for transmitting a request from the

mobile device to the remote storage device for transmission of the identified stored

mobile device data from the remote storage device to the mobile device (see

Vasudevan, p. 3 [0036-0038 & 0043]); means for receiving the identified stored mobile

device data from the remote storage device in response to the transmitted request (see

Vasudevan, p. 3 [0040, 0043-0044]); and means for storing the identified stored mobile

device data in the mobile device memory (see *Vasudevan*, p. 3 [0043-0044]).

Conclusion

5.   Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

6.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to ANTHONY S. ADDY whose telephone number is

(571)272-7795. The examiner can normally be reached on Mon-Thur 8:00am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Alexander Eisen can be reached on 571-272-7687. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Anthony S Addy/
Examiner, Art Unit 2617

/Alexander Eisen/

Supervisory Patent Examiner, Art Unit 2617